

## Commodity Futures Trading Commission

## § 1.55

(m) In the event a plan is not filed and/or approved for each registered futures commission merchant, retail foreign exchange dealer, or introducing broker that is a member of more than one self-regulatory organization, the Commission may design and, after notice and opportunity for comment, approve a plan for those futures commission merchants, retail foreign exchange dealers, or introducing brokers that are not the subject of an approved plan (under paragraph (h) of this section), delegating to a designated self-regulatory organization the responsibilities described in paragraph (d) of this section.

[78 FR 68638, Nov. 14, 2013]

### § 1.53 [Reserved]

### § 1.54 Contract market rules submitted to and approved or not disapproved by the Secretary of Agriculture.

Notwithstanding any provision of these rules, any bylaw, rule, regulation, or resolution of a contract market that was submitted to the Secretary of Agriculture pursuant to § 1.38(a) or § 1.39(a) of these rules, and was either approved by the Secretary or not disapproved by him, as of April 21, 1975, shall continue in full force and effect unless and until disapproved, altered or supplemented by or with the approval of the Commission. The adoption of this rule does not constitute approval by the Commission of any contract market bylaw, rule, regulation or resolution.

(Sec. 411, Pub. L. 93-463, 88 Stat. 1414; 7 U.S.C. 4a note)

[45 FR 2314, Jan. 11, 1980]

### § 1.55 Public disclosures by futures commission merchants.

(a)(1) Except as provided in 1.65, no futures commission merchant, or in the case of an introduced account no introducing broker, may open a commodity futures account for a customer, other than for a customer specified in paragraph (f) of this section, unless the futures commission merchant or introducing broker first:

(i) Furnishes the customer with a separate written disclosure statement containing only the language set forth

in paragraph (b) of this section (except for nonsubstantive additions such as captions) or as otherwise approved under paragraph (c) of this section; *Provided, however*, that the disclosure statement may be attached to other documents as the cover page or the first page of such documents and as the only material on such page; and

(ii) Receives from the customer an acknowledgment signed and dated by the customer that he received and understood the disclosure statement.

(b) The language set forth in the written disclosure document required by paragraph (a) of this section shall be as follows:

#### RISK DISCLOSURE STATEMENT

The risk of loss in trading commodity futures contracts can be substantial. You should, therefore, carefully consider whether such trading is suitable for you in light of your circumstances and financial resources. You should be aware of the following points:

(1) You may sustain a total loss of the funds that you deposit with your broker to establish or maintain a position in the commodity futures market, and you may incur losses beyond these amounts. If the market moves against your position, you may be called upon by your broker to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the time required by your broker, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.

(2) The funds you deposit with a futures commission merchant for trading futures positions are not protected by insurance in the event of the bankruptcy or insolvency of the futures commission merchant, or in the event your funds are misappropriated.

(3) The funds you deposit with a futures commission merchant for trading futures positions are not protected by the Securities Investor Protection Corporation even if the futures commission merchant is registered with the Securities and Exchange Commission as a broker or dealer.

(4) The funds you deposit with a futures commission merchant are generally not guaranteed or insured by a derivatives clearing organization in the event of the bankruptcy or insolvency of the futures commission merchant, or if the futures commission merchant is otherwise unable to refund your funds. Certain derivatives clearing organizations, however, may have programs that provide limited insurance to customers. You should inquire of your futures commission merchant whether your funds will be insured

by a derivatives clearing organization and you should understand the benefits and limitations of such insurance programs.

(5) The funds you deposit with a futures commission merchant are not held by the futures commission merchant in a separate account for your individual benefit. Futures commission merchants commingle the funds received from customers in one or more accounts and you may be exposed to losses incurred by other customers if the futures commission merchant does not have sufficient capital to cover such other customers' trading losses.

(6) The funds you deposit with a futures commission merchant may be invested by the futures commission merchant in certain types of financial instruments that have been approved by the Commission for the purpose of such investments. Permitted investments are listed in Commission Regulation 1.25 and include: U.S. government securities; municipal securities; money market mutual funds; and certain corporate notes and bonds. The futures commission merchant may retain the interest and other earnings realized from its investment of customer funds. You should be familiar with the types of financial instruments that a futures commission merchant may invest customer funds in.

(7) Futures commission merchants are permitted to deposit customer funds with affiliated entities, such as affiliated banks, securities brokers or dealers, or foreign brokers. You should inquire as to whether your futures commission merchant deposits funds with affiliates and assess whether such deposits by the futures commission merchant with its affiliates increases the risks to your funds.

(8) You should consult your futures commission merchant concerning the nature of the protections available to safeguard funds or property deposited for your account.

(9) Under certain market conditions, you may find it difficult or impossible to liquidate a position. This can occur, for example, when the market reaches a daily price fluctuation limit ("limit move").

(10) All futures positions involve risk, and a "spread" position may not be less risky than an outright "long" or "short" position.

(11) The high degree of leverage (gearing) that is often obtainable in futures trading because of the small margin requirements can work against you as well as for you. Leverage (gearing) can lead to large losses as well as gains.

(12) In addition to the risks noted in the paragraphs enumerated above, you should be familiar with the futures commission merchant you select to entrust your funds for trading futures positions. The Commodity Futures Trading Commission requires each futures commission merchant to make publicly available on its Web site firm specific

disclosures and financial information to assist you with your assessment and selection of a futures commission merchant. Information regarding this futures commission merchant may be obtained by visiting our Web site, [www.\[Web site address\]](http://www.[Web site address]).

ALL OF THE POINTS NOTED ABOVE APPLY TO ALL FUTURES TRADING WHETHER FOREIGN OR DOMESTIC. IN ADDITION, IF YOU ARE CONTEMPLATING TRADING FOREIGN FUTURES OR OPTIONS CONTRACTS, YOU SHOULD BE AWARE OF THE FOLLOWING ADDITIONAL RISKS:

(13) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange, whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery, and clearing of transactions on such an exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use domestic alternative dispute resolution procedures. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

(14) Finally, you should be aware that the price of any foreign futures or option contract and, therefore, the potential profit and loss resulting therefrom, may be affected by any fluctuation in the foreign exchange rate between the time the order is placed and the foreign futures contract is liquidated or the foreign option contract is liquidated or exercised.

THIS BRIEF STATEMENT CANNOT, OF COURSE, DISCLOSE ALL THE RISKS AND OTHER ASPECTS OF THE COMMODITY MARKETS.

I hereby acknowledge that I have received and understood this risk disclosure statement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Customer

(c) The Commission may approve for use in lieu of the risk disclosure document required by paragraph (b) of this section a risk disclosure statement approved by one or more foreign regulatory agencies or self-regulatory organizations if the Commission determines that such risk disclosure statement is reasonably calculated to provide the disclosure required by paragraph (b) of this section. Notice of risk disclosure statements that may be used to satisfy Commission disclosure requirements, what requirements such statements meet and the jurisdictions which accept each format will be set forth in appendix A to this section; *Provided, however*, that an FCM also provides a customer with the risk disclosure statement required by paragraph (b) of this section and obtains the customer's acknowledgment that it has read and understands the disclosure document.

(d) Any futures commission merchant, or in the case of an introduced account any introducing broker, may open a commodity futures account for a customer without obtaining the separate acknowledgments of disclosure and elections required by this section and by §1.33(g), and by §§33.7 and 190.06 of this chapter, provided that:

(1) Prior to the opening of such account, the futures commission merchant or introducing broker obtains an acknowledgement from the customer, which may consist of a single signature at the end of the futures commission merchant's or introducing broker's customer account agreement, or on a separate page, of the disclosure statements, consents and elections specified in this section and §1.33(g), and in §§33.7, 155.3(b)(2), 155.4(b)(2), and 190.06 of this chapter, and which may include authorization for the transfer of funds from a segregated customer account to another account of such customer, as listed directly above the signature line, provided the customer has acknowledged by check or other indication next to a description of each specified disclosure statement, consent or election that the customer has received and understood such disclosure statement or made such consent or election; and

(2) The acknowledgment referred to in paragraph (d)(1) of this section is accompanied by and executed contemporaneously with delivery of the disclosures and elective provisions required by this section and §1.33(g), and by §§33.7 and 190.06 of this chapter.

(e) The acknowledgment required by paragraph (a) of this section must be retained by the futures commission merchant or introducing broker in accordance with §1.31.

(f) A futures commission merchant or, in the case of an introduced account, an introducing broker, may open a commodity futures account for an "institutional customer" as defined in §1.3(g) without furnishing such institutional customer the disclosure statements or obtaining the acknowledgments required under paragraph (a) of this section §§1.33(g) and 1.65(a)(3), and §§30.6(a), 33.7(a), 155.3(b)(2), 155.4(b)(2) and 190.10(c) of this chapter.

(g) This section does not relieve a futures commission merchant or introducing broker from any other disclosure obligation it may have under applicable law.

(h) Notwithstanding any other provision of this section or §1.65, a person registered or required to be registered with the Commission as a futures commission merchant pursuant to sections 4f(a)(1) or 4f(a)(2) of the Commodity Exchange Act and registered or required to be registered with the Securities and Exchange Commission as a broker or dealer pursuant to sections 15(b)(1) or 15(b)(11) of the Securities Exchange Act of 1934 and rules thereunder must provide to a customer or prospective customer, prior to the acceptance of any order for, or otherwise handling any transaction in or in connection with, a security futures product for a customer, the disclosures set forth in §41.41(b)(1) of this chapter.

(Approved by the Office of Management and Budget under control number 3038-0022)

(Secs. 4b, 4c(b), 4g(1), 4l, 4o, and 8a(5), Commodity Exchange Act, 7 U.S.C. 6b, 6c(b), 6g(1), 6l, 6o, and 12a(5)(1976), and sec. 217, Commodity Futures Trading Act of 1974, 88 Stat. 1405; secs. 2(a)(1), 4b, 4c, 4d, 4f and 8a, Commodity Exchange Act, as amended (7 U.S.C. 2, 6b, 6c, 6f and 12a))

## APPENDIX A To CFTC RULE 1.55 (c) — GENERIC RISK DISCLOSURE STATEMENT

**Risk Disclosure Statement for Futures and Options**

*This brief statement does not disclose all of the risks and other significant aspects of trading in futures and options. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. Trading in futures and options is not suitable for many members of the public. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.*

**Futures****1. Effect of 'Leverage' or 'Gearing'**

Transactions in futures carry a high degree of risk. The amount of initial margin is small relative to the value of the futures contract so that transactions are 'leveraged' or 'geared'. A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit: this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with the firm to maintain your position. If the market moves against your position or margin levels are increased, you may be called upon to pay substantial additional funds on short notice to maintain your position. If you fail to comply with a request for additional funds within the time prescribed, your position may be liquidated at a loss and you will be liable for any resulting deficit.

**2. Risk-reducing orders or strategies**

The placing of certain orders (e.g. 'stop-loss' orders, where permitted under local law, or 'stop-limit' orders) which are intended to limit losses to certain amounts may not be effective because market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as 'spread' and 'straddle' positions may be as risky as taking simple 'long' or 'short' positions.

**Options****3. Variable degree of risk**

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e. put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying

interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Selling ('writing' or 'granting') an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the option is 'covered' by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

**Additional risks common to futures and options****4. Terms and conditions of contracts**

You should ask the firm with which you deal about the terms and conditions of the specific futures or options which you are trading and associated obligations (e.g. the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain

## Commodity Futures Trading Commission

§ 1.55

circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

### 5. Suspension or restriction of trading and pricing relationships

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading in any contract or contract month because of price limits or 'circuit breakers') may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

Further, normal pricing relationships between the underlying interest and the future, and the underlying interest and the option may not exist. This can occur when, for example, the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge 'fair' value.

### 6. Deposited cash and property

You should familiarize yourself with the protections accorded money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

### 7. Commission and other charges

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

### 8. Transactions in other jurisdictions

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory

authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

### 9. Currency risks

The profit or loss in transactions in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

### 10. Trading facilities

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary: you should ask the firm with which you deal for details in this respect.

### 11. Electronic trading

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

### 12. Off-exchange transactions

In some jurisdictions, and only then in restricted circumstances, firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.

I hereby acknowledge that I have received and understood this risk disclosure statement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Customer

\* \* \* \* \*

[The following language should be printed on a page other than the pages containing the

disclosure language above and may be omitted from the required disclosure statement]

This disclosure document meets the risk disclosure requirements in the jurisdictions

identified below ONLY for those instruments which are specified.

United States: Commodity futures, options on commodity futures and options on commodities subject to the Commodity Exchange Act.

United Kingdom: Futures, options on futures, options on commodities and options on equities traded by members of the United Kingdom Securities and Futures Authority pursuant to the Financial Services Act, 1986.

Ireland: Financial futures and options on financial futures traded by members of futures exchanges on exchanges whose rules have been approved by the Central Bank of Ireland under Chapter VIII of the Central Bank Act, 1989.

(i) Notwithstanding any other provision of this section, no futures commission merchant may enter into a customer account agreement or first accept funds from a customer, unless the futures commission merchant discloses to the customer all information about the futures commission merchant, including its business, operations, risk profile, and affiliates, that would be material to the customer's decision to entrust such funds to and otherwise do business with the futures commission merchant and that is otherwise necessary for full and fair disclosure. In connection with the disclosure of such information, the futures commission merchant shall provide material information about the topics described in paragraph (k) of this section, expanding upon such information as necessary to keep such disclosure from being misleading, whether through omission or otherwise. The futures commission merchant shall also disclose the same information required by this paragraph to all customers existing on the effective date of this paragraph even if the futures commission merchant and such existing customers have previously entered into a customer account agreement or the futures commission merchant has already accepted funds from such existing customers. The futures commission merchant shall update the information required by this section as and when necessary, but at least annually, to keep such information accurate and complete and shall promptly disclose such updated information to all of its customers. In connection with such obligation to update information,

the futures commission merchant shall take into account any material change to its business operation, financial condition and other factors material to the customer's decision to entrust the customer's funds and otherwise do business with the futures commission merchant since its most recent disclosure pursuant to this paragraph, and for this purpose shall without limitation consider events that require periodic reporting required to be filed pursuant to § 1.12. For purposes of this section, the disclosures required pursuant to this paragraph will be referred to as the "Disclosure Documents." The Disclosure Documents shall provide a detailed table of contents referencing and describing the Disclosure Documents.

(j)(1) Each futures commission merchant shall make the Disclosure Documents available to each customer to whom disclosure is required pursuant to paragraph (i) of this section (for purposes of this section, its "FCM Customers") and to the general public.

(2) A futures commission merchant shall make the Disclosure Documents available to FCM Customers and to the general public by posting a copy of the Disclosure Documents on the futures commission merchant's Web site. A futures commission merchant, *however*, may use an electronic means other than its Web site to make the Disclosure Documents available to its FCM Customers; *provided* that:

(i) The electronic version of the Disclosure Documents shall be presented in a format that is readily communicated to the FCM Customers. Information is readily communicated to the FCM Customers if it is accessible to the ordinary computer user by means of commonly available hardware and software and if the electronically delivered document is organized in substantially the same manner as would be required for a paper document with respect to the order of presentation and the relative prominence of information; and

(ii) A complete paper copy of the Disclosure Documents shall be provided to an FCM Customer upon request.

(k) *Specific topics.* The futures commission merchant shall provide material information about the following specific topics:

## Commodity Futures Trading Commission

## § 1.55

(1) The futures commission merchant's name, address of its principal place of business, phone number, fax number, and email address;

(2) The name, title, business address, business background, areas of responsibility, and the nature of the duties of each person that is defined as a principal of the futures commission merchant pursuant to §3.1 of this chapter;

(3) The significant types of business activities and product lines engaged in by the futures commission merchant, and the approximate percentage of the futures commission merchant's assets and capital that are used in each type of activity;

(4) The futures commission merchant's business on behalf of its customers, including types of customers, markets traded, international businesses, and clearinghouses and carrying brokers used, and the futures commission merchant's policies and procedures concerning the choice of bank depositories, custodians, and counterparties to permitted transactions under §1.25;

(5) The material risks, accompanied by an explanation of how such risks may be material to its customers, of entrusting funds to the futures commission merchant, including, without limitation, the nature of investments made by the futures commission merchant (including credit quality, weighted average maturity, and weighted average coupon); the futures commission merchant's creditworthiness, leverage, capital, liquidity, principal liabilities, balance sheet leverage and other lines of business; risks to the futures commission merchant created by its affiliates and their activities, including investment of customer funds in an affiliated entity; and any significant liabilities, contingent or otherwise, and material commitments;

(6) The name of the futures commission merchant's designated self-regulatory organization and its Web site address and the location where the annual audited financial statements of the futures commission merchant is made available;

(7) Any material administrative, civil, enforcement, or criminal complaints or actions filed against the FCM where such complaints or actions

have not concluded, and any enforcement complaints or actions filed against the FCM during the last three years;

(8) A basic overview of customer fund segregation, futures commission merchant collateral management and investments, futures commission merchants, and joint futures commission merchant/broker dealers;

(9) Information on how a customer may obtain information regarding filing a complaint about the futures commission merchant with the Commission or with the firm's designated self-regulatory organization; and

(10) The following financial data as of the most recent month-end when the Disclosure Document is prepared:

(i) The futures commission merchant's total equity, regulatory capital, and net worth, all computed in accordance with U.S. Generally Accepted Accounting Principles and §1.17, as applicable;

(ii) The dollar value of the futures commission merchant's proprietary margin requirements as a percentage of the aggregate margin requirement for futures customers, Cleared Swaps Customers, and 30.7 customers;

(iii) The smallest number of futures customers, Cleared Swaps Customers, and 30.7 customers that comprise 50 percent of the futures commission merchant's total funds held for futures customers, Cleared Swaps Customers, and 30.7 customers, respectively;

(iv) The aggregate notional value, by asset class, of all non-hedged, principal over-the-counter transactions into which the futures commission merchant has entered;

(v) The amount, generic source and purpose of any committed unsecured lines of credit (or similar short-term funding) the futures commission merchant has obtained but not yet drawn upon;

(vi) The aggregated amount of financing the futures commission merchant provides for customer transactions involving illiquid financial products for which it is difficult to obtain timely and accurate prices; and

(vii) The percentage of futures customer, Cleared Swaps Customer, and 30.7 customer receivable balances that the futures commission merchant had

to write-off as uncollectable during the past 12-month period, as compared to the current balance of funds held for futures customers, Cleared Swaps Customers, and 30.7 customers; and

(11) A summary of the futures commission merchant's current risk practices, controls and procedures.

(l) In addition to the foregoing, each futures commission merchant shall adopt policies and procedures reasonably designed to ensure that advertising and solicitation activities by each such futures commission merchant and any introducing brokers associated with such futures commission merchant are not misleading to its FCM Customers in connection with their decision to entrust funds to and otherwise do business with such futures commission merchant.

(m) The Disclosure Document required by paragraph (i) of this section is in addition to the Risk Disclosure Statement required under paragraph (a) of this section.

(n) All Disclosure Documents, with each Disclosure Document dated the date of first use, shall be maintained in accordance with § 1.31 and shall be made available promptly upon request to representatives of its designated self-regulatory organization, representatives of the Commission, and representatives of applicable prudential regulators.

(o)(1) Each futures commission merchant shall make the following financial information publicly available on its Web site:

(i) The daily Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Exchanges for the most current 12-month period;

(ii) The daily Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers Pursuant to Commission Regulation 30.7 for the most current 12-month period;

(iii) The daily Statement of Cleared Swaps Customer Segregation Requirements and Funds in Cleared Swaps Customer Accounts Under Section 4d(f) of the Act for the most current 12-month period;

(iv) A summary schedule of the futures commission merchant's adjusted net capital, net capital, and excess net

capital, all computed in accordance with § 1.17 and reflecting balances as of the month-end for the 12 most recent months;

(v) The Statement of Financial Condition, the Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Exchanges, the Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers Pursuant to Commission Regulation 30.7, the Statement of Cleared Swaps Customer Segregation Requirements and Funds in Cleared Swaps Customer Accounts Under Section 4d(f) of the Act, an all related footnotes to the above schedules that are part of the futures commission merchant's most current certified annual report pursuant to § 1.16; and

(vi) The Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Exchanges, the Statement of Secured Amounts and Funds Held in Separate Accounts for 30.7 Customers Pursuant to Commission Regulation 30.7, and the Statement of Cleared Swaps Customer Accounts Under Section 4d(f) of the Act that are part of the futures commission merchant's unaudited Form 1-FR-FCM or Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934 ("FOCUS Report") for the most current 12-month period.

(2) To the extent any of the financial data identified in paragraph (1) of this section is amended, the FCM must clearly notate that the data has been amended.

(3) Each futures commission merchant must include a statement on its Web site that is available to the public that financial information regarding the futures commission merchant, including how the futures commission merchant invests and holds customer funds, may be obtained from the National Futures Association and include a link to the Web site of the National Futures Association's Basic System where information regarding the futures commission merchant's investment of customer funds is maintained.

(4) Each futures commission merchant must include a statement on its Web site that is available to the public



## Commodity Futures Trading Commission

## § 1.57

that additional financial information on all futures commission merchants is available from the Commodity Futures Trading Commission, and include a link to the Commodity Futures Trading Commission's Web page for financial data for futures commission merchants.

[43 FR 31890, July 24, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.55, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 1.56 Prohibition of guarantees against loss.

(a) [Reserved]

(b) No futures commission merchant or introducing broker may in any way represent that it will, with respect to any commodity interest in any account carried by the futures commission merchant for or on behalf of any person:

(1) Guarantee such person against loss;

(2) Limit the loss of such person; or

(3) Not call for or attempt to collect initial and maintenance margin as established by the rules of the applicable board of trade.

(c) No person may in any way represent that a futures commission merchant or introducing broker will engage in any of the acts or practices described in paragraph (b) of this section.

(d) This section shall not be construed to prevent a futures commission merchant or introducing broker from:

(1) Assuming or sharing in the losses resulting from an error or mishandling of an order; or

(2) Participating as a general partner in a commodity pool which is a limited partnership.

(e) This section shall not affect any guarantee entered into prior to January 28, 1982, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

[46 FR 62844, Dec. 29, 1981, as amended at 48 FR 35291, Aug. 3, 1983]

### § 1.57 Operations and activities of introducing brokers.

(a) Each introducing broker must:

(1) Open and carry each customer's account with a carrying futures com-

mission merchant on a fully-disclosed basis: *Provided, however,* That an introducing broker which has entered into a guarantee agreement with a futures commission merchant in accordance with the provisions of § 1.10(j) must open and carry such customer's account with such guarantor futures commission merchant on a fully-disclosed basis; and

(2) Transmit promptly for execution all customer orders to:

(i) A carrying futures commission merchant; or

(ii) A floor broker, if the introducing broker identifies its carrying futures commission merchant and that carrying futures commission merchant is also the clearing member with respect to the customer's order.

(b) An introducing broker may not carry proprietary accounts, nor may an introducing broker carry accounts in foreign futures.

(c) An introducing broker may not accept any money, securities or property (or extend credit in lieu thereof) to margin, guarantee or secure any trades or contracts of customers, or any money, securities or property accruing as a result of such trades or contracts: *Provided, however,* That an introducing broker may deposit a check in a qualifying account or forward a check drawn by a customer if:

(1) The futures commission merchant carrying the customer's account authorizes the introducing broker, in writing, to receive a check in the name of the futures commission merchant, and the introducing broker retains such written authorization in its files in accordance with § 1.31;

(2) The check is payable to the futures commission merchant carrying the customer's account;

(3) The check is deposited by the introducing broker, on the same day upon which it is received, in a bank or trust company located in the United States in a qualifying account, or the check is mailed or otherwise transmitted by the introducing broker to the futures commission merchant on the same day upon which it is received;

(4) For purposes of this paragraph (c), a qualifying account shall be deemed to be an account: